

*REMARKS/ARGUMENTS*

In response to the Office Action mailed October 16, 2007, Applicant requests continued examination. In this Amendment no claims are cancelled and new claim 12 is added so that claims 1-12 are now pending.

*Request for Interview*

Applicant requests a personal interview between his representative and the Examiner before examination on the merits of the claims presented here, pursuant to MPEP 706.07(b), to display and demonstrate an example of a notebook according to the invention.

*Reply to Rejection*

Claims 1-11 were rejected as unpatentable over Herlitz (DE 200 07 208 U1) in view of Gallot (FR 2 792 573). This rejection is respectfully traversed.

As previously discussed, Herlitz describes a document filing folder 10. As shown in Figures 1 and 2 of Herlitz, that folder includes a cover 20 and an anterior sheet 31, located on the left of a spiral binding 18a, and a posterior sheet 120 located on the right of the spiral binding. The spiral binding joins the anterior and posterior sheets. In addition, sheets 11, such as drawing sheets, are bound to the spiral binding 18a.

One of the cover sheets, namely cover sheet 31, includes a first flap 33 along one of the lower and upper edges of the sheet and the second flap 31 along a lateral edge of that sheet 31. The two flaps 32 and 33 are folded towards an interior side of the sheet 31 to form a pocket 15 for storing and accessing individual sheets that have been previously separated from the binding 18a, for example, by tearing along the perforations 18 shown in Figure 1 of Herlitz.

It is clearly described, as can be understood by even an elementary understanding of the German language, from the last two lines of page 5 through the first four lines of page 6, that the two flaps 32 and 33 have overlapping ends 32a and 33a. The two flaps overlap in an area 35 and are permanently attached to each other by an adhesive covering at least part of the area 35.

Because of the structure of the Herlitz folder, the two flaps 32 and 33 forming the pocket are permanently folded toward the anterior side of the cover 31. In other words, the flaps cannot be unfolded for the insertion of papers formerly or currently attached to the spiral binding.

As described at page 6, lines 6-15 of Herlitz, when the folder is closed as shown in Figure 1 of Herlitz, any sheets stored within the pocket 15 are prevented from sliding movement. Therefore, if an attempt were made to insert in the pocket sheets that were still attached to the binding, when the folder is closed, the sheets would be wrinkled. When the Herlitz folder 10 is opened, of course, sheets that have been previously separated from the binding can be inserted in the pocket 15 as indicated by arrows in Figure 2 of Herlitz. There is no similar description of inserting in the pocket sheets still attached to the binding because, even if the sheets could be fitted at all in the pocket 15, the wrinkled result would be highly undesirable.

Applicant emphasized that the assertion in the Office Action that the flaps 32 and 33 of Herlitz can be folded towards an interior side of the sheet, see page 2 of the Office Action, is entirely incorrect. Of course, during assembly, those two flaps are folded but then they are glued. The claim is directed not to an unassembled notebook and proper examination requires comparison of the claimed notebook to the completed notebook described by Herlitz.

Moreover, Applicant respectfully submits that proper attention may not have been given to the limitation appearing in independent claim 1, and also in new independent claim 12, describing restoring within the pocket of pages that are still linked to the binding. As described, that arrangement is not possible or advantageous in Herlitz. Moreover, it is impossible to place sheets in the pocket of Herlitz by

folding the flaps 32 and 33, since those flaps are not foldable but are permanently attached to each other by the adhesive in the area 35.

Finally, careful inspection of Herlitz shows that the proximity of the binding 18a to the edge 33'b of the flap 33 in Herlitz would prevent any insertion of a sheet that is still attached to the binding into the pocket 15.

By contrast with Herlitz, in the invention as defined by the two pending independent claims, pages still attached to the binding are easily stored in and accessed with respect to the "pocket" simply by folding and unfolding the flaps.

The reliance upon Gallot does not supply or suggest the acknowledged differences between claim 1 and Herlitz. Gallot describes a document filing folder having a sheet 1 with three flaps 12, 16, and 17 which are hinged so that they can be folded and unfolded. The Gallot folder is intended to collect and store a plurality of documents, such as individual sheets, under the flaps 12, 16, and 17. Using the reference numbers from Gallot, the sheet 1 is bound to the sheet 2 by a common edge 3. However, that hinging common edge 3 is not a binding to which documents are permanently attached so that the documents can be collected and stored under the folded flaps while still attached to that edge 3.

Applicant submits that a person of skill in the art would not conceive of the invention as defined by the pending claims based upon some hypothetical modification of Herlitz with Gallot. At best, that person might add a third flap to the two flaps 32 and 33 of Herlitz that are already permanently attached to each other, with the third flap hinged at a third edge of the first sheet, for example, opposite the flap 33. However, that added flap would have no particular value since the pocket 15 of Herlitz would still prevent the collection, storage, and access of pages still connected to the binding. The third flap, borrowed from Gallot, would only increase the difficulty of inserting documents in the pocket 15 of Herlitz. Thus, it appears that the rejection is constructed based upon knowledge of the invention and not an objective evaluation of the prior art free of reconstruction. The hindsight analysis that

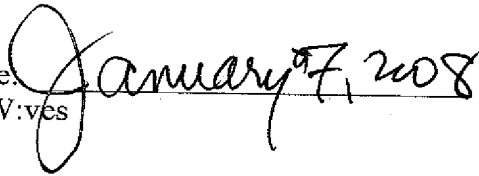
appears to have been applied here is legally incorrect. Therefore, Applicant respectfully requests reconsideration, withdrawal of the prior rejection, and allowance of all of claims 1-12.

Respectfully submitted,



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